



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

August 8, 2016

Memorandum for: Deputy Commissioner, Trials

Re: **Lieutenant Javad Valad**  
Tax Registry No. 937665  
32 Precinct  
Disciplinary Case No. 2015-14241

The above named members of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on March 8, 2016, charged with the following:

**DISCIPLINARY CASE NO. 2015-14241**

1. Lieutenant Javad Valad, while assigned to the 32<sup>nd</sup> Precinct, on or about June 21, 2014, while on-duty and in New York County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Lieutenant Valad wrongfully and improperly ordered/directed a police officer to change the Grand Larceny crime classification to Lost Property on a Complaint Report.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

**New York City Police Department  
Crime Complaint Reporting System  
Reference Guide, Page 4**

**PREPARATION OF  
COMPLAINT REPORTS**

2. Lieutenant Javad Valad, while assigned to the 32<sup>nd</sup> Precinct, on or about June 21, 2014, while on-duty and in New York County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Lieutenant Valad caused false/inaccurate entries to be made in a Department record, to wit: Lieutenant Valad ordered/directed a police officer to prepare a false/inaccurate Narrative in a Complaint Report.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

**P.G. 203-05, Page 1, Paragraph 4**

**PERFORMANCE ON DUTY -  
GENERAL**

In a Memorandum dated June 22, 2016, Assistant Deputy Commissioner Robert W. Vinal found Lieutenant Valad Guilty of Specification Nos. 1 and 2 in Disciplinary Case No. 2015-14241. Having read the Memorandum and analyzed the facts of this matter, I approve the findings but disapprove the penalty for Lieutenant Valad.

I have considered the totality of the issues and circumstances in this matter, and deem that a lesser penalty is warranted. Therefore, Lieutenant Valad is to forfeit ten (10) vacation days, as a disciplinary penalty.

  
William J. Bratton  
Police Commissioner



POLICE DEPARTMENT CITY OF NEW YORK

June 22, 2016

MEMORANDUM FOR: Police Commissioner

Re: Lieutenant Javad Valad  
Tax Registry No. 937665  
32 Precinct  
Disciplinary Case No. 2015-14241  
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**Charges and Specifications:**

1. Lieutenant Javad Valad, while assigned to the 32nd Precinct, on or about June 21, 2014, while on-duty and in New York County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Lieutenant Valad wrongfully and improperly ordered/directed a police officer to change the Grand Larceny crime classification to Lost Property on a Complaint Report.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED  
CONDUCT

New York City Police Department Crime Complaint Reporting System Reference  
Guide, Page 4 – PREPARATION OF COMPLAINT REPORTS

2. Lieutenant Javad Valad, while assigned to the 32nd Precinct, on or about June 21, 2014, while on-duty and in New York County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Lieutenant Valad caused false/inaccurate entries to be made in a Department record, to wit: Lieutenant Valad ordered/directed a police officer to prepare a false/inaccurate Narrative in a Complaint Report.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED  
CONDUCT

P.G. 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY – GENERAL

**Appearances:**

For the Department: Scott Rosenberg, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For Respondent: James Moschella, Esq.  
Karasyk & Moschella, LLP  
233 Broadway, Suite 2340  
New York, NY 10279



**Hearing Date:**

March 8, 2016

**Decision:**

Respondent is found Guilty

**Trial Commissioner:**

ADCT Robert W. Vinal

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 8, 2016. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The Department called Beverly Atkins, Police Officers Derek Pasolini and Jelani Mills, and Lieutenant Michael Brill as witnesses. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Guilty of the charged misconduct.

## FINDINGS AND ANALYSIS

On June 21, 2014, Respondent was on duty, assigned to the 32nd Precinct, serving as the third platoon commander. After monitoring the dispatcher's radio transmission of a call that had been made to 911, he drove to a laundromat at [REDACTED] Manhattan ("the laundromat"). When he arrived at the laundromat, the patrol officers who had responded to the radio call, Officers Derek Pasolini and Jelani Mills, had already interviewed the complainant, Beverly Atkins. The investigation which preceded Respondent's arrival at the laundromat can be briefly summarized.

Atkins testified at this trial that she placed her wallet inside her laundry cart and then pushed her laundry cart from her apartment to the laundromat which was only a block away. While her wallet was in her laundry cart, she turned her back to her laundry cart as she loaded her clothing into a washing machine. When she turned around her wallet was gone. She looked for the wallet but could not find it. Because she was upset, she called her girlfriend who then called 911 on her behalf and reported that Atkins' wallet had been stolen inside the laundromat.

When Officers Pasolini and Mills arrived at the laundromat, she related these facts to them. Pasolini handed Atkins a Complainant's Report of Lost or Stolen Property/Identity Theft form (PD 313-1516) [Department's Exhibit (DX) 1]. Atkins listed on this form the items that were inside her wallet at the time it was stolen. These items included a Capital One credit card, a Bank of America card, a Chase Bank card, her New York State Driver's License and \$240.00 in cash. However, at this trial when Atkins was shown the Complainant's Report of Lost or Stolen Property/Identity Theft report that she had completed (DX 1), Atkins testified that she did not make the checkmarks in the boxes on the form which indicated that these items had been "Lost" rather than stolen.

They told Atkins that the theft of her wallet would be classified as a grand larceny because she had credit cards inside her wallet when it was stolen. Atkins did not recall speaking to Respondent at the laundromat but she is certain that she never told anyone that she could have lost her wallet before she entered the laundromat.

Pasolini completed a Complaint Report Worksheet (PD 313-152A) on which he classified Atkins' complaint as a grand larceny. In the "Details" section of this Complaint Report Worksheet, Pasolini wrote that Atkins had stated that while she was inside the laundromat someone had stolen her wallet.

When he and Mills returned to the 32<sup>nd</sup> Precinct, Pasolini dropped this Complaint Report Worksheet into a box at the front desk and then he and Mills resumed patrol. Respondent radioed them to return to the station house. When they arrived there, Mills stayed in their RMP and only Pasolini spoke to Respondent. Respondent asked him why he had classified the incident as a grand larceny and directed Pasolini to write a new Complaint Report Worksheet and classify it as a lost property incident. Respondent further told Pasolini to write in the Details section of this new Complaint Report Worksheet that although Atkins was inside the laundromat when she first discovered that her wallet was missing, she did not know where the loss of the wallet had occurred.

Pasolini testified that when he protested to Respondent that he could not write such a narrative since Atkins had not told him that she had lost her wallet, Respondent crossed out the narrative Pasolini had written in the Details section of his Complaint Report Worksheet and Respondent wrote out a new narrative. Respondent then told Pasolini to copy this new narrative into the Details section of a new Complaint Report Worksheet. Mills testified that after consulting with his partner, he advised Pasolini that he had better do what Respondent had directed him to do. Pasolini testified he wrote out a new Complaint Report Worksheet (DX 2) in which he replaced "Grand larceny" with "Lost Property" and he copied into the Details section the description that Respondent had written out for him that although Atkins was inside the laundromat when she first discovered that her wallet was missing, she did not know where the loss of the wallet had occurred.

Pasolini and Mills both testified that on the Complainant's Report of Lost or Stolen Property/Identity Theft report (DX 1) they did not make checkmarks in the boxes indicating that the items listed had been lost not stolen, and neither of them saw Atkins check these boxes.

Pasolini and Mills both recalled that when Respondent arrived at the laundromat, they went to speak with an employee while Respondent spoke to Atkins alone. Thereafter, he and Mills returned to their RMP and both agreed that they should classify the incident as a grand larceny.

Lieutenant Michael Brill, who is assigned to the Quality Assurance Division (QAD), testified that he conducted an investigation into allegations that reports of felony crimes committed within the 32<sup>nd</sup> Precinct were being downgraded by a supervisor. Pursuant to this investigation, Brill reviewed the Complaint Report regarding Atkins' complaint, the ICAD Report (DX 3) of the 911 call, and the re-interview of Atkins. Brill concluded that the Complaint Report had been misclassified which resulted in the instant charges.

Respondent testified that when he arrived at the laundromat, Pasolini told him that he was taking a report for a grand larceny. He began asking Pasolini questions about Atkins' account of what happened and decided to speak to Atkins himself to make sure that the report "was filled out properly." Atkins told him that both her wallet and cell phone had been taken. However, he noticed that she had a cellphone in one of her pockets. When he questioned Atkins about the cellphone, she told him that she had been mistaken about her cellphone being taken.

Respondent felt that Atkins was being evasive in her answers and began asking her more specific questions about where she had put her wallet down. She told him that she had put the wallet in the laundry cart, not on the folding table. He told Atkins that in order for the incident to be classified as a grand larceny, she needed to be able to tell him definitively that she had the wallet with her inside the laundromat. He testified that after a series of questions, she told him that she was not entirely sure she actually had the wallet with her inside the laundromat.

Respondent asserted that based on the totality of the circumstances surrounding the wallet's disappearance, including the small size of the laundromat, the fact that the laundromat

employee had not seen anybody come in after Atkins arrived, and that Atkins told him that she was unsure about whether or not she definitely had her wallet inside the laundromat, he determined that Atkins' wallet could have just as easily fallen out of her laundry cart as she was walking to the laundromat. He told Atkins that her complaint would be classified as a lost property complaint.

Respondent testified that when he left the laundromat he was under the impression that Pasolini had heard his entire conversation with Atkins inside the laundromat and Respondent therefore believed that Atkins' complaint would be classified by Pasolini as a lost property complaint. He described himself as "dumbfounded" when he returned to the 32 precinct and discovered that Pasolini had classified Atkins' complaint as a grand larceny. He called Pasolini and Mills back to the precinct and told Pasolini to reclassify the incident as a lost property complaint. Respondent explained to Pasolini that Atkins had admitted that she could have lost her wallet before she entered the laundromat. He told Pasolini to write what had happened, but he did not write down a narrative for Pasolini to copy. Respondent also denied that he had made the checkmarks on the Complainant's Report of Lost or Stolen Property indicating that the items inside Atkins' wallet had been lost rather than stolen.

Respondent denied that he had directed Pasolini to downgrade Atkins' complaint from a grand larceny complaint to a non-crime lost property complaint because supervisors at the 32 Precinct were under pressure to downgrade crimes.

### Analysis

Respondent offered unsupported, self-serving testimony that when he spoke to Atkins she conceded to him that it was possible that she might have lost her wallet while she was walking to the laundromat. The believability of Respondent's claim is crucial to the determination of these



charges because Respondent asserted that it was because of Atkin's concession that he intercepted Pasolini's Complaint Report Worksheet at the 32 Precinct and directed Pasolini to change the worksheet by reclassifying Atkin's complaint from a grand larceny complaint to a lost property complaint and by entering a revised narrative in the Details section.

Respondent's claim was refuted by Atkins who has consistently asserted that she had her wallet with her when she entered the laundromat and that someone stole her wallet inside the laundromat. Moreover, Atkins adamantly testified at this trial that she never told anyone that she could have lost her wallet before she entered the laundromat.

The believability of Respondent's testimony regarding what he claimed Atkins said to him must also be evaluated in light of his claim that Pasolini testified falsely at this trial when he asserted that Respondent had crossed out the narrative that Pasolini had written on his draft complaint report worksheet and had written out a new narrative for Pasolini to copy onto a new complaint report worksheet. Respondent testified at this trial that although he had "explained" to Pasolini that Atkins had admitted that she could have lost her wallet and that he told Pasolini "to write what happened," Respondent asserted that he "didn't actually write down the story for him." (Tr. p. 170) Pasolini was a rookie officer at the time of this event and Respondent offered no plausible explanation for why Pasolini would invent a false story that Respondent, who was a supervisor, had personally written out a new Details narrative for Pasolini to copy onto a new Complaint Report Worksheet. Thus, Pasolini's claim has the ring of truth.

Pasolini's testimony that it was Respondent who authored the description contained in the Details section of the revised Complaint Report Worksheet (DX 2) is also supported by the last sentence in this narrative which states, "Credit cards cancelled, no unauthorized usage." Pasolini testified credibly that if he had personally authored this narrative, he would not have included

this sentence because neither he nor Atkins knew whether or not the person who took Atkin's wallet had used the Capital One credit card, or the Bank of America card, or her Chase Bank card.

Regarding the Complainant's Report of Lost or Stolen Property/Identity Theft form (DX 1), Atkins, Pasolini and Mills all credibly denied that they had made the checkmarks in the boxes on the form which indicated that these items had been "Lost" rather than stolen. Since I credit their denials, I find that Respondent must have checked the "Lost" boxes or caused them to be checked because doing so would provide support for his claim that Atkins had admitted to him that she could have lost her wallet.

Finally, the believability of Respondent's detailed trial testimony regarding what Atkins supposedly said to him at the laundromat and regarding his conversation with Pasolini, must also be questioned in light of the answers he gave to questions posed to him by QAD investigators at an interview on June 26, 2015. Although this interview took place only 12 months after he had ordered Pasolini to reclassify Atkin's complaint from a grand larceny crime to a lost property complaint, and even though his interviewers showed him the final version of the Complaint Report Worksheet (DX 2), Respondent told his interviewers that he had no recollection of having responded to the laundromat, or having spoken to Pasolini, or having interviewed Atkins there.

I reject Respondent's assertion that his memory of what Atkins supposedly said to him at the laundromat was completely refreshed after reviewing discovery materials and talking to Pasolini. Respondent's claim at this trial that hearing Atkins' name jogged his memory because he thought it was an unusual name is not believable since her name is contained in the "Victim" section of the final version of the Complaint Report Worksheet (DX 2) which was shown to him

at his QAD interview and yet failed to refresh his recollection that he had responded to the laundromat and interviewed Atkins there.

Based on the above, I reject Respondent's trial testimony and, based on the credible testimony of Atkins and Pasolini, I find Respondent guilty as charged.

### PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on January 10, 2005. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached Confidential Memorandum. Respondent has no prior disciplinary adjudications.

The Advocate recommended that Respondent forfeit 15 vacation days as a penalty. The Advocate did not cite any previous disciplinary decisions to support his recommendation.

In *Case No. 2011-3639* (signed Dec. 28, 2012), an eight-year police officer who had no prior disciplinary record forfeited 15 vacation days after a mitigation hearing during which he admitted having misclassified charges on complaint reports on two occasions. Once, he prepared a report for Criminal Mischief when the complainant had reported that someone had broken a window on her car and stolen items from the car. On the second occasion, he prepared a report for Criminal Mischief when the facts established that a Burglary had been committed.

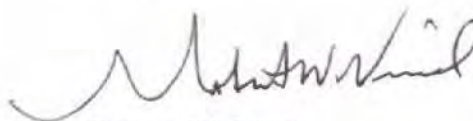
In *Case No. 2013-9818* (signed Oct. 13, 2015), a captain who had no prior disciplinary record forfeited 15 vacation days as a penalty after he was found guilty of lowering the value of stolen property in two complaint reports to reclassify the crimes as petit larcenies rather than grand larcenies. In addition, the captain deleted pertinent facts from a complaint report in order to classify a felony assault as a misdemeanor assault. In that case, the Trial Commissioner noted

that the captain appeared to have acted under a sincere, though mistaken, belief that the crimes should be classified as misdemeanors and not felonies.

Most recently, in *Case No. 2013-10908* (signed March 22, 2016), a ten-year police officer with no prior disciplinary record forfeited ten vacation days as a penalty after he was found guilty of preparing a complaint report on which he classified a crime as petit larceny when this crime should have been classified as a robbery and failing to notify the detective squad that further investigation was required since the crime involved a firearm.

Therefore, it recommended that Respondent forfeit 15 vacation days as a penalty.

Respectfully submitted,



Robert W. Vinal  
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
LIEUTENANT JAVAD VALAD  
TAX REGISTRY NO. 937665  
DISCIPLINARY CASE NO. 2015-14241

Respondent received an overall rating of 4.5 on his 2015 annual performance evaluation, 4.0 on his 2014 annual evaluation, and 4.0 on his 2013 ten-month probationary evaluation. He has no medals. [REDACTED]

[REDACTED] He has no prior disciplinary adjudications. He was placed on Level 1 force monitoring on December 10, 2009 as a result of having received three or more CCRB complaints within a one year period. This monitoring ended on October 29, 2010.

For your consideration,

Robert W. Vinal  
Assistant Deputy Commissioner Trials